

### SECTION III—REMARKS

This amendment is submitted in response to the Office Action mailed 3 October 2008. Claims 31, 36 and 38 are amended and claims 31 and 33-38 remain pending in the application. Applicants respectfully request reconsideration of the application and allowance of all pending claims in view of the above amendments and the following remarks.

#### Rejections Under 35 U.S.C. § 102

The Examiner rejected claims 31 and 33-38 as anticipated under 35 U.S.C. § 102(b) by U.S. Patent No. 5,761,037 to Anderson *et al.* (“Anderson”). Applicants respectfully traverse the Examiner’s rejections. A claim is anticipated only if each and every element, as set forth in the claim, is found in a single prior-art reference. MPEP § 2131; *Verdegaal Bros. v. Union Oil of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). For at least the reasons explained below, *Anderson* cannot anticipate these claims because it does not disclose every element and limitation recited therein.

Claim 31, as amended, recites an evaporator combination including:

a base configured to be thermally coupled to a semiconductor heat source, the base including a cavity defined by a bottom and a peripheral portion around the perimeter of the bottom;

a top cover secured to the peripheral portion of the base so as to define a sealed volume in which a working fluid is vaporized;

a liquid inlet port to receive the working fluid in a liquid state, operatively coupled to the sealed volume;

a vapor outlet port from which the working fluid exits the evaporator in a vapor state, operatively coupled to the sealed volume;

*a plurality of structural elements integrally formed in the bottom or the top cover*, wherein the plurality of

structural elements prevent the sealed volume from collapsing when the evaporator is operated such that evaporation of the working fluid occurs under sub-atmospheric conditions; and

a wicking structure, disposed within a portion of the cavity, having a top surface on which a meniscus of the working fluid is formed and a bottom surface into which the working fluid is drawn through a capillary mechanism and a pressure differential between a pressure of the working fluid in the meniscus and a pressure of vaporized working fluid in the sealed volume.

(italics added). As shown in figures 1 and 2, *Anderson* discloses an orientation-independent evaporator with a housing made up of a thermal contact surface 104 and a cap 105 (col. 3, lines 46-56). A wicking layer 103 and a wick member 102 are disposed within the housing (col. 4, lines 12-16). In a previous response, Applicants argued that wick member 102 is a completely separate element from contact surface 104 or cap 105, rather than a feature formed in surface 104 or cap 105, and that *Anderson* therefore does not disclose, teach or suggest an evaporator combination including “a plurality of structural elements formed in the bottom or the top cover,” as recited in previous claim 31.

Responding to Applicants’ arguments, the Examiner alleges that:

The applicant argues that *Anderson* does not disclose, teach or suggest an evaporator combination including “a plurality of structural elements formed in the bottom or the top cover” as the amended claim 31 suggest. The examiner disagrees with the applicant’s argument. The examiner defines the plurality of structural elements as 102 and 103 wicking members of the *Anderson* reference as the plurality of structural elements formed in the bottom or the top cover (see figures 1 and 2; col. 3 lines 55-67 and col. 4 lines 10-30).

(Office Action of 3 October 2008 at 2). Applicants respectfully submit that the Examiner's characterization of *Anderson* is inconsistent with what is shown in the figures and described in the text. Figures 1 and 2 clearly show that wicking spreader 101, wicking member/manifold 102, wicking layer 103 and surface 104 are separate elements that are assembled together with cap 105 to form evaporator 10. Manifold 102 and wicking layer 103, which the Examiner equates with the recited structural elements, cannot be "integrally formed in" surface 104 or cap 105 because, as clearly shown in the figures, they are elements separate from the surface or top cover.

*Anderson's* text also supports the conclusion that manifold 102 and wicking layer 103 are elements separate from, and not integrally formed in, surface 104 and cover 105. At col. 3, lines 56-61 and col. 4, lines 8-10, *Anderson* discloses that wicking layer 103 and wicking spreader 101 are made of the same sintered material. But manifold 102 is made of a different material: col. 4, lines 6-9, indicate that manifold 102 is made of a machinable metallic open-cell foam. Surface 104 must be an altogether different material than wicking layer 103, wicking spreader 101 and manifold 102, since it must be solid to create a vapor-tight enclosure for the evaporator. Because surface 104, manifold 102 and wicking layer 103 are made of different materials, it is impossible for the manifold 102 and wicking layer 103 to be "integrally formed in" surface 104, as characterized by the Examiner.

Furthermore, *Anderson* indicates at col. 4, lines 40-42, that "it may prove beneficial to metallurgically bond the three wicking sections together and also to heated surface 104." *Anderson* thus teaches that the parts of condenser 10 must be separate elements, since they can be, but need not be, bonded together. For the above reasons,

Applicants respectfully submit that *Anderson* does not disclose, teach or suggest an evaporator combination including a plurality of structural elements “integrally formed in the bottom or the top cover.” Applicants submit that claim 31 is therefore in condition for allowance.

Regarding claims 33-38, if an independent claim is allowable then any claim depending therefrom is also allowable. *See generally* MPEP § 2143.03; *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). As discussed above, claim 31 is in condition for allowance. Applicants submit that claims 33-38 are therefore allowable by virtue of their dependence on an allowable independent claim, as well as by virtue of the features recited therein. Applicants therefore respectfully request withdrawal of the rejections and allowance of these claims.

#### Conclusion

Given the above amendments and accompanying remarks, all claims pending in the application are in condition for allowance. If the undersigned attorney has overlooked a teaching in any of the cited references that is relevant to allowance of the claims, the Examiner is requested to specifically point out where such teaching may be found. Further, if there are any informalities or questions that can be addressed via telephone, the Examiner is encouraged to contact the undersigned attorney at (206) 292-8600.

Charge Deposit Account

Please charge our Deposit Account No. 02-2666 for any additional fee(s) that may be due in this matter, and please credit the same deposit account for any overpayment.

Respectfully submitted,

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